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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re: Application of Thomas)
Serial No.: 10/716,360)
Filed: November 18, 2003) Art Unit: 3772
For: Gas system and methods for) Attorney docket No. 1440.2032-001
enabling respiratory stability) Attorney docket No. CMD-069
Examiner: Nihir B. Patel)
)

January 16, 2009

Amendment After Final Office Action

Commissioner of Patents and Trademarks
Alexandria VA 22313-1450

Dear Sir:

The Applicant responds to the final Office action with mail date October 16, 2008, and submits this amendment is both timely and in compliance. While Applicant believes no extension of time is necessary, if an extension is needed, the Applicant petitions for such extension and authorize the Patent Office to deduct any costs from their deposit account 502704.

Attorney Brian M. Kolkowski (Reg. No. 36.847), who is authorized to act in a representative capacity in this case, spoke by telephone with the examiner, Nihir Patel, on Tuesday, January 13, 2009. Attorney Kolkowski argued on behalf of the Applicant that while the Applicant believed the standing claims 1-13 should be allowable as previously presented, Applicant was willing, with the examiner's agreement, to amend claims 1-13 to make them unambiguously distinct over the cited prior art and thus place the application in condition for allowance.

This amendment after final thus includes the previously discussed amendments to the claims. The following amendments and remarks are respectfully submitted, and are believed to place this application in condition for allowance.

The Applicant herewith files a Notice of Appeal along with this Amendment in case the Claims as amended are not entered to allow the Applicant a timely appeal in this case.